

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

WP(C).No. 10713 of 2004(A)

PETITIONERS:

1. JOHN JOSEPH, S/O.P.K.JOSEPH, AGED 49 YEARS, PUTHENPURCAKL ESTATE, CHURALI VILLAGE, THALIPARAMBA, REP. BY HIS POWER OF ATTORNEY, P.K.JOHN, AGED 41 YEARS, S/O.P.K.KUNCHERIA, MUPPATHANCHIL, PULINCUNNOO, ALAPPUZHA.
2. ASHA JOSEPH, D/O.P.K.JOSEPH, AGED 50 YEARS, PUTHENPURACKAL ESTATE, CHURALI VILLAGE, THALIPARAMBA, REP. BY HER POWER OF ATTORNEY HOLDER P.K.JOHN, AGED 41 YEARS, S/O.PK.KUNCHERIA, MUPPATHANCHIL, PULINCUNNOO, ALAPPUZHA.

BY ADV. SRI.M.M.ABDUL AZIZ (SR.)
SRI.PKX.KUNCHERIA
SRI.M.A.ABDUL HAKHIM

RESPONDENTS:

1. THE TALUK LAND BOARD,
THALIPARAMBU REP. BY THE CHAIRMAN.
2. TAHSILDAR, TALIPARAMBA.
3. THE REVENUE DIVISIONAL OFFICER,
THALASSERY.
4. THE VILLAGE OFFICER, CHUZHALI VILLAGE,
CHUZHALI.
5. STATE OF KERALA, REP. BY CHIEF
SECRETARY TO GOVERNMENT, SECRETARIAT,
TRIVANDRUM.

BY ADV. SRI. SHYSON P. MANGUZHA, GOVT. PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC : 10713 OF 2004

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1 : TRUE COPY OF THE ORDER DT.30.03.76 RELATING TO THE LAND OF THE 1ST PETITIONER.

EXT.P2 : TRUE COPY OF THE ORDER DT.30.03.76 RELATING TO THE LAND OF THE 2ND PETITIONER.

EXT.P3 : HOLDING THAT THE FAMILY CONSISTING OF THE PETITIONERS AND THEIR MOTHER LUCYKUTTY OWNED AND POSSESSED 11.12 ACRES AS EXCESS LAND AND DIRECTING TO SURRENDER THE SAME. A PHOTOSTATE COPY OF THE ORDER TLB PASSED ORDER DT.27.2.1988 IN TLB NO.200/76/TBA.

EXT.P4 : TRUE COPY OF THE ORDER DT.23.9.1988.

EXT.P5 : TRUE COPY OF THE JUDGMENT CRP NO.898/1989 DT.22.11.1995.

EXT.P6 : TRUE COPY OF THE SAID CLAIM PETITION NO.1003/1973 DT.11.08.1994.

EXT.P7 : TRUE COPY OF THE CLAIM PETITION DT.11.08.1994.

EXT.P8 : TRUE COPY OF THE STAY ORDER DT.12.8.1994.

EXT.P9 : TRUE COPY OF THE SAID NOTICE DT.26.06.2003.

EXT.P10 : TRUE COPY OF THE NOTICE DT.16.03.2004.

EXT.P11 : TRUE COPY OF THE SAID ORDER DT.26.03.2003.

PIUS C. KURIAKOSE, J.

W.P.(C) No.10713 OF 2004

Dated this the 30th day of July, 2007

JUDGMENT

Heard both sides. In view of the obvious position that applications under Section 85(8) filed by the petitioners are pending as Exts.P6 and P7 and that the order vacating stay was passed by the Taluk Land Board on 26.03.03, i.e., even before the hearing notice was received by the petitioners, there is justification for granting relief.

The 1st respondent is directed to take up Exts.P6 and P7 applications, hear the petitioners and anybody else who may be concerned in the matter and take decision on Exts.P6 and P7 in accordance with law. While taking decision, the 1st respondent will consider the implications of the newly inserted provision, Section 7 (E) and the amendments made to Section 84 of the Kerala Land Reforms Act by virtue of Act 21 of 2006. Till such time as the decision is taken by the 1st respondent as directed above, the order of stay passed by this Court will continue.

PIUS C. KURIAKOSE, JUDGE

btt

